

FORTY-SECOND DAY - MARCH 20, 2002

LEGISLATIVE JOURNAL

**NINETY-SEVENTH LEGISLATURE
SECOND SESSION**

FORTY-SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, March 20, 2002

PRAYER

The prayer was offered by Reverend Bob Neben, Faith United Methodist Church, Kearney, Nebraska.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brown, Coordsen, Dierks, Jensen, Kristensen, Kruse, Landis, Maxwell, Dw. Pedersen, Price, Raikes, Tyson, and Wickersham who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-first day was approved.

**SELECT COMMITTEE REPORT
Enrollment and Review**

LEGISLATIVE BILL 1073. Placed on Select File as amended.

E & R amendment to LB 1073:

AM7197

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 60-6,267, Revised Statutes
- 4 Supplement, 2000, is amended to read:
- 5 60-6,267. (1) Any person in Nebraska who drives any
- 6 motor vehicle which has or is required to have an occupant
- 7 protection system shall ensure that:
- 8 (a) All children ~~under the age of five and weighing less~~
- 9 ~~than forty pounds~~ up to six years of age being transported in such
- 10 vehicle use a child passenger restraint system of a type which

11 meets Federal Motor Vehicle Safety Standard 213 as developed by the
12 National Highway Traffic Safety Administration, as such standard
13 existed on the effective date of this act, as of July 10, 1990, and
14 which is correctly installed in such vehicle; and

15 (b) All children ~~under the age of six years of age and~~
16 ~~less than sixteen years of age and weighing forty or more pounds~~
17 being transported in such vehicle use an occupant protection
18 system.

19 This subsection shall apply to every motor vehicle which
20 is equipped with an occupant protection system or is required to be
21 equipped with restraint systems pursuant to Federal Motor Vehicle
22 Safety Standard 208, as such standard existed on the effective date
23 of this act, except taxicabs, mopeds, motorcycles, and any motor
24 vehicle designated by the manufacturer as a 1963 year model or
1 earlier which is not equipped with an occupant protection system.

2 (2) Whenever any licensed physician determines, through
3 accepted medical procedures, that use of a child passenger
4 restraint system by a particular child would be harmful by reason
5 of the child's weight, physical condition, or other medical reason,
6 the provisions of subsection (1) of this section shall be waived.
7 The driver of any vehicle transporting such a child shall carry on
8 his or her person or in the vehicle a signed written statement of
9 the physician identifying the child and stating the grounds for
10 such waiver.

11 (3) The drivers of authorized emergency vehicles shall
12 not be subject to the requirements of subsection (1) of this
13 section when operating such authorized emergency vehicles pursuant
14 to their employment.

15 (4) The Department of Motor Vehicles shall develop and
16 implement an ongoing statewide public information and education
17 program regarding the use of child passenger restraint systems and
18 occupant protection systems and the availability of distribution
19 and discount programs for child passenger restraint systems.

20 (5) All persons being transported in a motor vehicle
21 operated by a holder of a provisional operator's permit or a school
22 permit shall use such motor vehicle's occupant protection system.

23 Sec. 2. Section 60-6,268, Revised Statutes Supplement,
24 2000, is amended to read:

25 60-6,268. (1) A person violating any provision of
26 subsection (1) of section 60-6,267 shall, ~~for a first offense,~~ be
27 guilty of an infraction as defined in section 29-431 and shall be
1 fined twenty-five dollars for each violation. The failure to
2 provide a child restraint system for more than one child in the
3 same vehicle at the same time, as required in such subsection,
4 shall not be treated as a separate offense.

5 ~~For a first offense, a person who is charged with a~~
6 ~~violation of such subsection, who does not have in his or her~~
7 ~~possession a child restraint system meeting the requirements of~~
8 ~~Federal Motor Vehicle Safety Standard 213 as of August 26, 1983,~~

9 and who subsequently purchases or rents for a one-year period such
 10 a system prior to his or her court appearance shall not, upon
 11 presentation of proof of purchase or proof of rental for a one-year
 12 period of such a system, have any fine imposed and shall not have
 13 any points assessed against his or her driving record.

14 For a second or any subsequent offense, any person
 15 violating such subsection shall be guilty of an infraction.

16 (2) A person who has acquired the statement authorized by
 17 subsection (2) of section 60-6,267, but fails to show a peace
 18 officer such statement when requested to do so, shall be guilty of
 19 an infraction as defined in section 29-431 and shall be fined ten
 20 dollars for each offense. The failure to produce a statement for
 21 more than one child in the same vehicle at the same time shall not
 22 be treated as a separate offense.

23 (2) (3) Enforcement of subdivision (1)(b) and subsection
 24 (5) of section 60-6,267 shall be accomplished only as a secondary
 25 action when an operator of a motor vehicle has been cited or
 26 charged with a violation or some other offense.

27 Sec. 3. Original sections 60-6,267 and 60-6,268, Revised
 1 Statutes Supplement, 2000, are repealed."

- 2 2. On page 1, lines 4 and 5, strike "to create a fund;
- 3 to provide duties;"; in line 5 after the last semicolon insert
- 4 "and"; and in lines 6 and 7 strike "; and to declare an emergency".

(Signed) Philip Erdman, Chairperson

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LR 313, 314, and 315 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 313, 314, and 315.

GENERAL FILE

LEGISLATIVE BILL 1310. Senator Chambers renewed his pending amendment, FA921, found on page 1040.

Senator Chambers offered the following amendment to his pending amendment:

FA933

Amend FA917

Strike all provisions of FA921 and insert "Page 15, line 12 strike and show as stricken "only".

Senators Connealy, Janssen, Brashear, and McDonald asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER KRISTENSEN PRESIDING

Senator Chambers asked unanimous consent to replace his pending amendment, FA933, found in this day's Journal, with a substitute amendment. No objections. So ordered.

Senator Chambers withdrew his pending amendment, FA933, found in this day's Journal.

Senator Chambers withdrew his pending amendment, FA921, found on page 1040 and considered in this day's Journal.

Senator Chambers offered the following substitute amendment:

FA934

Amend FA917

On Pg. 15 Line 12 strike the word "only"

The Chambers amendment was adopted with 27 ayes, 2 nays, 17 present and not voting, and 3 excused and not voting.

Senator Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Chambers offered the following amendment:

FA931

Page 17, line 4 strike "five" and insert "four".

Senator Chambers withdrew his amendment.

Senator Stuhr asked unanimous consent to be excused until she returns. No objections. So ordered.

Senator Baker offered the following amendment:

AM3212

(Amendments to FA917)

- 1 1. Insert the following new section:
- 2 "Sec. 8. Section 66-1521, Revised Statutes Supplement,
- 3 2000, is amended to read:
- 4 66-1521. (1) A petroleum release remedial action fee is
- 5 hereby imposed upon the refiner, importer, or supplier who first
- 6 sells, offers for sale, or uses petroleum within this state, except
- 7 that the fee shall not be imposed on petroleum that is exported or
- 8 packaged in individual containers of one hundred ten gallons or
- 9 less and intended for sale or use in this state. The amount of the
- 10 fee shall be nine-tenths of one cent per gallon on motor vehicle
- 11 fuels as defined in section 66-482 and three-tenths of one cent per
- 12 gallon on petroleum other than such motor vehicle fuels. The
- 13 amount of the fee shall be used first for payment of claims
- 14 approved by the State Claims Board pursuant to section 66-1531;

15 second, up to three million dollars of the fee per year shall be
16 used for reimbursement of owners and operators under the Petroleum
17 Release Remedial Action Act for investigations of releases ordered
18 pursuant to section 81-15,124; and third, the remainder of the fee
19 shall be used for any other purpose authorized by section 66-1519.

20 The fee shall be paid by all refiners, importers, and suppliers
21 subject to the fee by filing a monthly return on or before the
22 twenty-fifth day if filed electronically or the twentieth day if
23 not filed electronically of the calendar month following the
1 monthly period to which it relates. The pertinent provisions,
2 specifically including penalty provisions, of the motor fuel laws
3 as defined in section 66-712 shall apply to the administration and
4 collection of the fee. There shall be a refund allowed on any fee
5 paid on petroleum which was taxed and then exported. The fee paid
6 under this subsection shall not be eligible for the credit under
7 section 66-4,124.

8 (2) No refiner, importer, or supplier shall sell, offer
9 for sale, or use petroleum in this state without having first
10 obtained a petroleum release remedial action license. Application
11 for a license shall be made to the Motor Fuel Tax Enforcement and
12 Collection Division of the Department of Revenue upon a form
13 prepared and furnished by the division. If the applicant is an
14 individual, the application shall include the applicant's social
15 security number. Failure to obtain a license prior to such sale,
16 offer for sale, or use of petroleum shall be a Class IV
17 misdemeanor. The division may suspend or cancel the license of any
18 refiner, importer, or supplier who fails to pay the fee imposed by
19 subsection (1) of this section in the same manner as licenses are
20 suspended or canceled pursuant to section 66-720.

21 (3) The division shall adopt and promulgate rules and
22 regulations necessary to carry out this section.

23 (4) The division shall deduct and withhold from the
24 petroleum release remedial action fee collected pursuant to this
25 section an amount sufficient to reimburse the direct costs of
26 collecting and administering the petroleum release remedial action
27 fee. Such costs shall not exceed twenty-eight thousand dollars for
1 each fiscal year. The twenty-eight thousand dollars shall be
2 prorated, based on the number of months the fee is collected,
3 whenever the fee is collected for only a portion of a year. The
4 amount deducted and withheld for costs shall be deposited in the
5 Petroleum Release Remedial Action Collection Fund which is hereby
6 created. The Petroleum Release Remedial Action Collection Fund
7 shall be appropriated to the Department of Revenue. Any money in
8 the fund available for investment shall be invested by the state
9 investment officer pursuant to the Nebraska Capital Expansion Act
10 and the Nebraska State Funds Investment Act.

11 (5) The division shall collect the fee imposed by
12 subsection (1) of this section.

13 (6) For tax periods beginning January 1, 2002, and

14 thereafter, the return required by subsection (1) of this section
 15 shall be filed with the department by the twenty-fifth day of the
 16 calendar month following the monthly period to which it relates
 17 regardless of whether it is filed electronically.

18 (7)(a) Whenever the unobligated balance of the Petroleum
 19 Release Remedial Action Cash Fund reaches twenty million dollars or
 20 more, the Department of Environmental Quality shall notify the
 21 division, at which time the division shall suspend the collection
 22 of the fee. If the unobligated balance of the fund falls below ten
 23 million dollars, the department shall notify the division which
 24 shall again start the collection of the fee until the unobligated
 25 balance of the fund reaches twenty million dollars.

26 (b) Unobligated balance shall be the balance in the fund
 27 as of the last day of any month less the estimated cost of the
 1 remedial action plans of third-party-claim payments which have been
 2 approved by the Department of Environmental Quality for the
 3 applications for reimbursement pending before the department. Such
 4 estimated cost shall be determined by the department.

5 (c) The effective date of the notification shall be the
 6 first day of the next month following receipt of such notification
 7 by the division if the notification is received thirty days prior
 8 to the first day of the next month. If the notification is not
 9 received thirty days prior to the first day of the next month, the
 10 effective date of such notification shall be the first day of the
 11 following month."

12 2. On page 38, line 4, after "sections" insert
 13 "66-1521,".

14 3. Renumber the remaining sections accordingly.

Senator Aguilar asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Baker withdrew his amendment.

Senator Chambers requested a record vote on the advancement of the bill.

Voting in the affirmative, 32:

Beutler	Erdman	Kremer	Raikes	Thompson
Bourne	Foley	Kristensen	Redfield	Vrtiska
Burling	Hartnett	Maxwell	Robak	Wehrbein
Byars	Hudkins	Pedersen, Dw.	Schrock	Wickersham
Coordsen	Janssen	Pederson, D.	Smith	
Cudaback	Jensen	Preister	Suttle	
Engel	Jones	Price	Synowiecki	

Voting in the negative, 5:

Baker	Brown	Chambers	Schimek	Tyson
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Present and not voting, 6:

Bromm	Cunningham	Landis
Bruning	Kruse	Quandahl

Excused and not voting, 6:

Aguilar	Connealy	McDonald
Brashear	Dierks	Stuhr

Advanced to E & R for review with 32 ayes, 5 nays, 6 present and not voting, and 6 excused and not voting.

AMENDMENTS - Print in Journal

Senator Byars filed the following amendment to LB 1021:
(Amendment, AM3131, may be found in the Bill Books. The amendment has been printed separately and is on file in the Bill Room - Room 1102.)

Senator Erdman filed the following amendment to LB 814:
AM3030

(Amendments to AM2991)

- 1 1. On page 2, strike beginning with "by" in line 11
- 2 through "body" in line 12 and insert "following a majority vote of
- 3 the registered voters of the municipality voting on the issue at a
- 4 primary or general election".
- 5 2. On page 3, line 5, strike "by" through "directors"
- 6 and insert "following a majority vote of the registered voters of
- 7 the natural resources district voting on the issue at a statewide
- 8 primary or general election primary or general election"; and
- 9 strike beginning with "by" in line 25 through "board" in line 26
- 10 and insert "following a majority vote of the registered voters of
- 11 the county voting on the issue at a statewide primary or general
- 12 election".

GENERAL FILE

LEGISLATIVE BILL 1309. Title read. Considered.

The Standing Committee amendment, AM3079, printed separately and referred to on page 997, was considered.

Pending.

VISITORS

Visitors to the Chamber were members and advisors of the Columbus Junior City Council; 60 students and teachers from Grant Elementary School,

Fremont; Charlie and Sharon Harris from Springfield; and fourth-grade students and sponsor from Fairview Elementary School, Bellevue.

RECESS

At 11:54 a.m., on a motion by Senator Redfield, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Kristensen presiding.

ROLL CALL

The roll was called and all members were present except Senators Dierks, Price, Quandahl, and Robak who were excused until they arrive.

RESOLUTION

LEGISLATIVE RESOLUTION 318. Introduced by Vrtiska, 1.

PURPOSE: The purpose of the study is to examine the prohibition of certain telephone solicitations. In particular, the study shall gather input from the telecommunications companies and members of the Public Service Commission and the Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Transportation and Telecommunications Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 1309. Senator Schimek renewed her pending amendment, AM3175, found on page 1037, to the Standing Committee amendment.

Senator Schimek withdrew her amendment.

Senator Smith renewed his pending amendment, AM3187, found on page 1038, to the Standing Committee amendment.

Senators Schimek and Coordsen asked unanimous consent to be excused

until they return. No objections. So ordered.

Senator Smith requested a record vote on his amendment.

Voting in the affirmative, 8:

Baker	Byars	Kruse	Synowiecki
Burling	Hartnett	Smith	Tyson

Voting in the negative, 24:

Aguilar	Cunningham	Kristensen	Pederson, D.	Schimek
Beutler	Engel	Landis	Price	Stuhr
Bruning	Erdman	Maxwell	Quandahl	Vrtiska
Chambers	Foley	McDonald	Raikes	Wehrbein
Cudaback	Kremer	Pedersen, Dw.	Redfield	

Present and not voting, 14:

Bourne	Brown	Janssen	Preister	Thompson
Brashear	Connealy	Jensen	Schrock	Wickersham
Bromm	Hudkins	Jones	Suttle	

Excused and not voting, 3:

Coordsen	Dierks	Robak
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The Smith amendment lost with 8 ayes, 24 nays, 14 present and not voting, and 3 excused and not voting.

Senator Tyson renewed his pending amendment, AM3194, found on page 1039, to the Standing Committee amendment.

Senators Aguilar, Dw. Pedersen, and McDonald asked unanimous consent to be excused until they return. No objections. So ordered.

Senator Byars moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

Senator Tyson moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Senator Tyson requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 3:

Erdman	Price	Tyson
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Voting in the negative, 35:

Beutler	Chambers	Janssen	Pederson, D.	Stuhr
Bourne	Connealy	Jensen	Preister	Suttle
Brashear	Cudaback	Kremer	Raikes	Synowiecki
Bromm	Engel	Kristensen	Redfield	Thompson
Brown	Foley	Kruse	Robak	Vrtiska
Bruning	Hartnett	Landis	Schimek	Wehrbein
Byars	Hudkins	Maxwell	Schrock	Wickersham

Present and not voting, 7:

Baker	Cunningham	Jones	Smith
Burling	Dierks	Quandahl	

Excused and not voting, 4:

Aguilar	Coordsen	McDonald	Pedersen, Dw.
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The Tyson amendment lost with 3 ayes, 35 nays, 7 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Pending.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 898A. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2001, LB 543, section 44, as amended by section 49, Legislative Bill 1, Ninety-seventh Legislature, First Special Session, 2001; to appropriate funds to aid in carrying out the provisions of Legislative Bill 898, Ninety-seventh Legislature, Second Session, 2002; to change certain appropriations as prescribed; to repeal the original section; and to declare an emergency.

AMENDMENT - Print in Journal

Senator Bourne filed the following amendment to LB 1085:
AM3182

(Amendments to Standing Committee amendments, AM3155)

- 1 1. Strike sections 1 and 13 and insert the following new
- 2 sections:
- 3 "Section 1. Section 77-2602, Revised Statutes
- 4 Supplement, 2001, is amended to read:

5 77-2602. (1) Every person engaged in distributing or
6 selling cigarettes at wholesale in this state shall pay to the Tax
7 Commissioner of this state a special privilege tax. This shall be
8 in addition to all other taxes. It shall be paid prior to or at
9 the time of the sale, gift, or delivery to the retail dealer in the
10 several amounts as follows: On each package of cigarettes
11 containing not more than twenty cigarettes, thirty-four cents per
12 package until July 1, 2002, fifty-four cents per package commencing
13 on July 1, 2002, and continuing until July 1, 2004, and thirty-four
14 cents per package commencing on July 1, 2004; and on packages
15 containing more than twenty cigarettes, the same tax as provided on
16 packages containing not more than twenty cigarettes for the first
17 twenty cigarettes in each package and a tax of one-twentieth of the
18 tax on the first twenty cigarettes on each cigarette in excess of
19 twenty cigarettes in each package. Commencing July 1, 1994, and
20 continuing until July 1, ~~2009~~ 2002, the State Treasurer shall place
21 the equivalent of twenty-one cents of such tax less three million
22 dollars each fiscal year of proceeds of such tax in the General
23 Fund. Commencing on July 1, 2002, and continuing until July 1,
24 2004, the State Treasurer shall place the equivalent of thirty-nine
25 cents of such tax less three million dollars each fiscal year of
26 proceeds of such tax in the General Fund. Commencing on July 1,
27 2004, and continuing until July 1, 2009, the State Treasurer shall
28 place the equivalent of twenty-one cents of such tax less three
29 million dollars each fiscal year of proceeds of such tax in the
30 General Fund. Commencing July 1, 2009, the State Treasurer shall
31 place the equivalent of twenty-one cents of such tax in the General
32 Fund. For purposes of this section, the equivalent of a specified
33 number of cents of the tax shall mean that portion of the proceeds
34 of the tax equal to the specified number divided by ~~thirty-four~~ the
35 tax rate per package. The State Treasurer shall distribute the
36 remaining proceeds of such tax in the following order:
37 (a) First, beginning July 1, 1980, the State Treasurer
38 shall place the equivalent of one cent of such tax in the Nebraska
39 Outdoor Recreation Development Cash Fund. For fiscal year
40 distributions occurring after FY1998-99, the distribution under
41 this subdivision shall not be less than the amount distributed
42 under this subdivision for FY1997-98. Any money needed to increase
43 the amount distributed under this subdivision to the FY1997-98
44 amount shall reduce the ~~twenty-one-cent~~ distribution to the General
45 Fund;
46 (b) Second, beginning July 1, 1993, the State Treasurer
47 shall place the equivalent of three cents of such tax in the
48 Department of Health and Human Services Finance and Support Cash
49 Fund to carry out sections 81-637 to 81-640. For fiscal year
50 distributions occurring after FY1998-99, the distribution under
51 this subdivision shall not be less than the amount distributed
52 under this subdivision for FY1997-98. Any money needed to increase
53 the amount distributed under this subdivision to the FY1997-98

4 amount shall reduce the ~~twenty-one cent~~ distribution to the General
5 Fund;

6 (c) Third, beginning July 1, 2001, and continuing until
7 July 1, 2002, the State Treasurer shall place the equivalent of
8 five cents of such tax in the Building Renewal Allocation Fund,
9 Beginning on July 1, 2002, and continuing until July 1, 2004, the
10 State Treasurer shall place the equivalent of seven cents of such
11 tax in the Building Renewal Allocation Fund. Beginning on July 1,
12 2004, and continuing until all the purposes of the Deferred
13 Building Renewal Act have been fulfilled, the State Treasurer shall
14 place the equivalent of five cents of such tax in the Building
15 Renewal Allocation Fund. The Legislature shall appropriate each
16 fiscal year all sums inuring to the fund, plus interest earnings
17 for the Task Force for Building Renewal to be used to carry out its
18 duties and to fulfill the purposes of the Deferred Building Renewal
19 Act. Unexpended balances existing at the end of each fiscal year
20 shall be, and are hereby, reappropriated. For fiscal year
21 distributions occurring after FY1998-99, the distribution under
22 this subdivision shall not be less than five-sevenths of the amount
23 distributed under this subdivision for FY1997-98. Any money needed
24 to increase the amount distributed under this subdivision to
25 five-sevenths of the FY1997-98 amount shall reduce the
26 ~~twenty-one cent~~ distribution to the General Fund;

27 (d) Fourth, the State Treasurer shall place the
1 difference between the equivalent of thirteen cents of such tax and
2 the sum of the amounts distributed pursuant to subdivisions (a)
3 through (c) and (f) through (h) of this subsection in a special
4 fund to be known as the Nebraska Capital Construction Fund;

5 (e) Fifth, beginning July 1, 1994, and continuing until
6 July 1, 2009, the State Treasurer shall place in the Municipal
7 Infrastructure Redevelopment Fund the sum of three million dollars
8 each fiscal year to carry out the Municipal Infrastructure
9 Redevelopment Fund Act. The Legislature shall appropriate the sum
10 of three million dollars each year for fiscal year 1994-95 through
11 fiscal year 2008-09;

12 (f) Sixth, beginning July 1, 2001, the State Treasurer
13 shall place the equivalent of two cents of such tax in the
14 Information Technology Infrastructure Fund;

15 (g) Seventh, beginning July 1, 2001, and continuing until
16 June 30, 2016, the State Treasurer shall place one million dollars
17 each fiscal year in the City of the Primary Class Development Fund.
18 If necessary, the State Treasurer shall reduce the distribution of
19 tax proceeds to the General Fund pursuant to this subsection by
20 such amount required to fulfill the one million dollars to be
21 distributed pursuant to this subdivision; and

22 (h) Eighth, beginning July 1, 2001, and continuing until
23 June 30, 2016, the State Treasurer shall place one million five
24 hundred thousand dollars each fiscal year in the City of the
25 Metropolitan Class Development Fund. If necessary, the State

26 Treasurer shall reduce the distribution of tax proceeds to the
27 General Fund pursuant to this subsection by such amount required to
1 fulfill the one million five hundred thousand dollars to be
2 distributed pursuant to this subdivision.

3 (2) The Legislature hereby finds and determines that the
4 projects funded from the Municipal Infrastructure Redevelopment
5 Fund and the Building Renewal Allocation Fund are of critical
6 importance to the State of Nebraska. It is the intent of the
7 Legislature that the allocations and appropriations made by the
8 Legislature to such funds or, in the case of allocations for the
9 Municipal Infrastructure Redevelopment Fund, to the particular
10 municipality's account not be reduced until all contracts and
11 securities relating to the construction and financing of the
12 projects or portions of the projects funded from such funds or
13 accounts of such funds are completed or paid or, in the case of the
14 Municipal Infrastructure Redevelopment Fund, the earlier of such
15 date or July 1, 2009, and that until such time any reductions in
16 the cigarette tax rate made by the Legislature shall be
17 simultaneously accompanied by equivalent reductions in the amount
18 dedicated to the General Fund from cigarette tax revenue. Any
19 provision made by the Legislature for distribution of the proceeds
20 of the cigarette tax for projects or programs other than those to
21 (a) the General Fund, (b) the Nebraska Outdoor Recreation
22 Development Cash Fund, (c) the Department of Health and Human
23 Services Finance and Support Cash Fund, (d) the Municipal
24 Infrastructure Redevelopment Fund, (e) the Building Renewal
25 Allocation Fund, (f) the Information Technology Infrastructure
26 Fund, (g) the City of the Primary Class Development Fund, and (h)
27 the City of the Metropolitan Class Development Fund shall not be
1 made a higher priority than or an equal priority to any of the
2 programs or projects specified in subdivisions (a) through (h) of
3 this subsection.

4 Sec. 13. Section 77-4008, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-4008. (1) ~~Commencing on or after January 1, 1988, a~~ A
7 tax is hereby imposed upon the first owner of tobacco products to
8 be sold in this state. The tax shall be ~~fifteen percent the~~
9 specified percentage of (a) the purchase price of such tobacco
10 products paid by the first owner or (b) the price at which a first
11 owner who made, manufactured, or fabricated the tobacco product
12 sells the items to others. Such tax shall be in addition to all
13 other taxes.

14 (2) Whenever any person who is licensed under section
15 77-4009 purchases tobacco products from another person licensed
16 under section 77-4009, the seller shall be liable for the payment
17 of the tax.

18 (3) For purposes of this section, specified percentage
19 means (a) fifteen percent until July 1, 2002, (b) twenty percent
20 commencing on July 1, 2002, and continuing until July 1, 2004, and

- 21 (c) fifteen percent commencing on July 1, 2004."
 22 2. On page 9, line 3; page 13, line 19; page 17, line 7;
 23 and page 20, line 22, after "2002," insert "and until October 1,
 24 2004."
 25 3. On page 11, line 10; and page 20, line 3, after
 26 "2002," insert "and commencing October 1, 2004."
 27 4. On page 18, line 1, after "mean" insert "(1)"; in
 1 lines 2, 3, and 6 strike the new matter; and in line 6 before the
 2 period insert "and (2) commencing October 1, 2002, and until
 3 October 1, 2004, and in addition to sales referenced in subdivision
 4 (1) of this section, the provision of a service to any purchaser
 5 who is purchasing property or such service for the purpose of
 6 reselling it in the normal course of his or her business, either in
 7 the form or condition in which it is purchased or as an attachment
 8 to or integral part of other property or service".

GENERAL FILE

LEGISLATIVE BILL 1309. Senator Preister renewed his pending amendment, AM3189, found on page 1039, to the Standing Committee amendment.

SENATOR CUDABACK PRESIDING

Senators Dierks, Jensen, and Landis asked unanimous consent to be excused until they return. No objections. So ordered.

Senator Preister withdrew his amendment.

Senator Chambers moved to recommit LB 1309 to the Appropriations Committee.

Senators Kremer and Brashear asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER KRISTENSEN PRESIDING

Senator Chambers withdrew his motion to recommit.

Senator Byars asked unanimous consent to be excused. No objections. So ordered.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA935

Amend AM3079

On page 1, in line 1, after "sections" insert ", except section 105,".

Senator Chambers asked unanimous consent to replace his pending amendment, FA935, found in this day's Journal, with a substitute amendment. No objections. So ordered.

Senator Chambers withdrew his pending amendment, FA935, found in this day's Journal.

Senators Chambers and Wehrbein offered the following substitute amendment to the Standing Committee amendment:

AM3243

(Amendments to Standing Committee amendments, AM3079)

1 1. Insert the following new sections:

2 "Sec. 101. Laws 2001, LB 543, section 166, as amended by
3 section 102, Legislative Bill 1, Ninety-seventh Legislature, First
4 Special Session, 2001, is amended to read:

5 Sec. 166. AGENCY NO. 48 -- COORDINATING COMMISSION FOR
6 POSTSECONDARY EDUCATION

7 Program No. 499 - State Scholarship Award Program

8

	FY2001-02	FY2002-03
--	-----------	-----------

9 ~~GENERAL FUND~~

	<u>1,241,023</u>	<u>1,230,598</u>
--	------------------	------------------

10 GENERAL FUND

	<u>1,241,023</u>	<u>1,274,271</u>
--	------------------	------------------

11 FEDERAL FUND est.

	80,376	80,376
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12 ~~PROGRAM TOTAL~~

	<u>1,321,399</u>	<u>1,310,974</u>
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13 PROGRAM TOTAL

	<u>1,321,399</u>	<u>1,354,647</u>
--	------------------	------------------

14 All funds appropriated to this program are for state aid
15 and shall only be used for such purpose. The Coordinating
16 Commission for Postsecondary Education may contract, at no cost,
17 with financial aid offices in Nebraska institutions of
18 postsecondary education to disburse the funds to students.

19 Sec. 102. Laws 2001, LB 543, section 167, as amended by
20 section 103, Legislative Bill 1, Ninety-seventh Legislature, First
21 Special Session, 2001, is amended to read:

22 Sec. 167. AGENCY NO. 48 -- COORDINATING COMMISSION FOR
23 POSTSECONDARY EDUCATION

1 Program No. 500 - Scholarship Assistance Program

2

	FY2001-02	FY2002-03
--	-----------	-----------

3 ~~GENERAL FUND~~

	<u>2,044,988</u>	<u>2,034,563</u>
--	------------------	------------------

4 ~~PROGRAM TOTAL~~

	<u>2,044,988</u>	<u>2,034,563</u>
--	------------------	------------------

5 GENERAL FUND

	<u>2,044,988</u>	<u>2,078,236</u>
--	------------------	------------------

6 PROGRAM TOTAL

	<u>2,044,988</u>	<u>2,078,236</u>
--	------------------	------------------

7 All funds appropriated to this program are for state aid
8 and shall only be used for such purpose. The Coordinating
9 Commission for Postsecondary Education may contract, at no cost,
10 with financial aid offices in Nebraska institutions of
11 postsecondary education to disburse the funds to students.

12 Sec. 103. Laws 2001, LB 543, section 169, as amended by
13 section 105, Legislative Bill 1, Ninety-seventh Legislature, First
14 Special Session, 2001, is amended to read:

15 Sec. 169. AGENCY NO. 48 -- COORDINATING COMMISSION FOR

16 POSTSECONDARY EDUCATION

17 Program No. 650 - Postsecondary Education Award Programs

18 FY2001-02 FY2002-03

19 ~~GENERAL FUND~~ 2,859,050 2,824,20320 ~~PROGRAM TOTAL~~ 2,859,050 2,824,20321 GENERAL FUND 2,859,050 2,736,85622 PROGRAM TOTAL 2,859,050 2,736,856

23 All funds appropriated to this program are for state aid

24 and shall only be used for such purpose. The Coordinating

25 Commission for Postsecondary Education may contract, at no cost,

26 with financial aid offices in Nebraska institutions of

27 postsecondary education to disburse the funds to students."

1 2. Renumber the remaining sections and correct the

2 repealer accordingly.

Senator Chambers moved for a call of the house. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

The Chambers-Wehrbein amendment was adopted with 28 ayes, 11 nays, 5 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

AMENDMENTS - Print in Journal

Senator Schrock filed the following amendment to LB 1003:

AM3227

(Amendments to E & R amendments, AM7187)

- 1 1. Insert the following new sections:
- 2 "Section 1. The Legislature finds that there are
- 3 significant issues relating to the laws of Nebraska governing the
- 4 management and use of Nebraska surface water and ground water. The
- 5 issues to be examined are: (1) A review of Laws 1996, LB 108, to
- 6 determine what, if any, changes are needed to adequately address
- 7 Nebraska's conjunctive use management issues; (2) an evaluation of
- 8 the utility of allowing temporary water transfers and, if deemed
- 9 useful, development of draft legislation and procedures for
- 10 authorizing and implementing a temporary water transfer law; (3) an
- 11 evaluation of the utility of authorizing additional types of
- 12 permanent water transfers and, if deemed useful, development of
- 13 draft legislation and procedures for authorizing and implementing
- 14 additional types of permanent water transfers; (4) a determination
- 15 as to the usefulness of water leasing or transfers and development
- 16 of a potential water banking system that would facilitate the
- 17 temporary or permanent transfer of water uses; and (5) a
- 18 determination as to what other ways, if any, inequities between
- 19 surface water users and ground water users need to be addressed and

20 potential actions the state could take to address any such
21 inequities. To address such issues, the Governor shall appoint a
22 Water Policy Task Force as provided in section 2 of this act.
23 Sec. 2. (1) The members of the Water Policy Task Force
1 shall include: (a) Twenty irrigators, with at least one irrigator
2 from each of the state's thirteen river basins, giving
3 consideration to maintaining a balance between surface water users
4 and ground water users. Three irrigators shall be selected from
5 the Republican River Basin, two irrigators shall be selected from
6 the North Platte River Basin, two irrigators shall be selected from
7 the middle Platte River Basin, two irrigators shall be selected
8 from the Loup River Basin, two irrigators shall be selected from
9 the Elkhorn River Basin, two irrigators shall be selected from the
10 Big Blue River Basin, one irrigator shall be selected from the
11 South Platte River Basin, one irrigator shall be selected from the
12 lower Platte River Basin, one irrigator shall be selected from the
13 Little Blue River Basin, one irrigator shall be selected from the
14 Nemaha River Basin, one irrigator shall be selected from the
15 Niobrara River Basin, one irrigator shall be selected from the
16 White Hat River Basin, and one irrigator shall be selected from the
17 Missouri tributaries basin; (b) three representatives from
18 differing agricultural organizations; (c) three representatives
19 from differing environmental organizations; (d) two representatives
20 from differing recreational organizations; (e) three
21 representatives to represent the state at large; (f) five
22 representatives suggested for the Governor's consideration by the
23 Nebraska Association of Resources Districts; (g) four
24 representatives suggested for the Governor's consideration by the
25 Nebraska Power Association; (h) five representatives suggested for
26 the Governor's consideration by the League of Nebraska
27 Municipalities, with consideration given to maintaining a balance
1 between larger and smaller municipalities; and (i) such other
2 members as the Governor deems appropriate to provide the task force
3 with adequate and balanced representation. The Governor shall
4 notify the Legislature upon completion of the appointments.
5 (2) Additional members of the task force shall be: (a)
6 one representative from the Department of Natural Resources to
7 coordinate as appropriate with other state agencies; (b) one
8 representative from the Attorney General's office; (c) the
9 chairperson of the Natural Resources Committee of the Legislature;
10 and (d) the vice chairperson of the Natural Resources Committee of
11 the Legislature. Other members of the Natural Resources Committee
12 of the Legislature may participate as desired.
13 Sec. 3. On behalf of the Water Policy Task Force, the
14 Natural Resources Committee of the Legislature shall contract for
15 the services of a meeting facilitator and such other assistance as
16 the task force deems necessary within the limits of the funds
17 appropriated. Such contract shall have the approval of the
18 Executive Board of the Legislative Council. In making its

- 19 selection for facilitator, the Natural Resources Committee shall
20 consult with the Attorney General's office and the Department of
21 Natural Resources.
- 22 Sec. 4. The Water Policy Task Force shall select an
23 executive committee. The executive committee shall consist of
24 three representatives from irrigation interests; one representative
25 from an agricultural organization; one representative from an
26 environmental organization; one representative from a recreational
27 organization; one representative of the state at large; one
1 representative of natural resources districts; one representative
2 of the Nebraska Power Association; one representative of
3 municipalities; one representative of the Department of Natural
4 Resources; one representative of the Attorney General's office; and
5 the chairperson and vice chairperson of the Natural Resources
6 Committee of the Legislature. Each executive committee member
7 shall be responsible for representing the rest of his or her
8 interest group on the executive committee. The executive committee
9 shall be responsible for developing the operating rules of the task
10 force and for developing proposals and recommendations to be
11 considered by the entire task force. The executive committee shall
12 apply for a grant of a minimum of three hundred fifty thousand
13 dollars from the Nebraska Environmental Trust Fund prior to the
14 application deadline of September 9, 2002, for grants to be awarded
15 and funded in 2003.
- 16 Sec. 5. The Water Policy Task Force shall meet at least
17 four times each year to consider the proposals and recommendations
18 of the executive committee and any other additional times as the
19 executive committee determines to be necessary to accomplish the
20 objectives established in section 1 of this act.
- 21 Sec. 6. The Water Policy Task Force shall discuss the
22 issues described in section 1 of this act and such related issues
23 as it deems appropriate, shall identify options for resolution of
24 such issues, and shall make recommendations to the Legislature and
25 the Governor relating to any water policy changes the task force
26 deems desirable.
- 27 The task force shall complete its work within eighteen
1 months after the Governor notifies the Legislature that all members
2 of the task force have been appointed and a meeting facilitator has
3 been selected.
- 4 Sec. 7. The Water Policy Task Force Cash Fund is
5 created. The fund shall be administered by the Department of
6 Natural Resources and expended at the direction of the Water Policy
7 Task Force. The fund shall consist of funds appropriated by the
8 Legislature, money received as gifts, grants, and donations, and
9 transfers authorized under sections 2-1579 and 66-1519. Any money
10 in the fund available for investment shall be invested by the state
11 investment officer pursuant to the Nebraska Capital Expansion Act
12 and the Nebraska State Funds Investment Act.
- 13 Sec. 8. Section 2-1579, Revised Statutes Supplement,

14 2000, is amended to read:

15 2-1579. (1) Except as provided in subsection (2) of this
16 section, expenditures may be made from the Nebraska Soil and Water
17 Conservation Fund as grants to individual landowners of not to
18 exceed seventy-five percent of the actual cost of eligible projects
19 and practices for soil and water conservation or water quality
20 protection, with priority given to those projects and practices
21 providing the greatest number of public benefits.

22 (2) The department shall reserve at least two percent of
23 the funds credited to the fund for grants to landowners ordered by
24 a natural resources district pursuant to the Erosion and Sediment
25 Control Act to install permanent soil and water conservation
26 practices. Such funds shall be made available for ninety percent
27 of the actual cost of the required practices and shall be granted

1 on a first-come, first-served basis until exhausted. Applications
2 not served shall receive priority in ensuing fiscal years.

3 (3) The commission shall determine which specific
4 projects and practices are eligible for the funding assistance
5 authorized by this section and shall adopt, by reference or
6 otherwise, appropriate standards and specifications for carrying
7 out such projects and practices. A natural resources district
8 assisting the department in the administration of the program may,
9 with commission approval, further limit the types of projects and
10 practices eligible for funding assistance in that district.

11 (4) As a condition for receiving any cost-share funds
12 pursuant to this section, the landowner shall be required to enter
13 into an agreement that if a conservation practice is terminated or
14 a project is removed, altered, or modified so as to lessen its
15 effectiveness, without prior approval of the department or its
16 delegated agent, for a period of ten years after the date of
17 receiving payment, the landowner shall refund to the fund any
18 public funds used for the practice or project. When deemed
19 necessary by the department or its delegated agent, the landowner
20 may as a further condition for receiving such funds be required to
21 grant a right of access for the operation and maintenance of any
22 eligible project constructed with such assistance. Acceptance of
23 money from the fund shall not in any other manner be construed as
24 affecting land ownership rights unless the landowner voluntarily
25 surrenders such rights.

26 (5) To the extent feasible, the department and the
27 commission shall administer the fund so that federal funds
1 available within the state for the same general purposes are
2 supplemented and not replaced with state funds.

3 (6) Transfers may be made from funds appropriated to the
4 Nebraska Soil and Water Conservation Fund, Program 304, to the
5 Water Policy Task Force Cash Fund at the direction of the
6 Legislature. Within fifteen days after the effective date of this
7 act, the State Treasurer shall transfer two hundred fifty thousand
8 dollars from funds appropriated to the Nebraska Soil and Water

9 Conservation Fund to the Water Policy Task Force Cash Fund.

10 Sec. 35. Section 66-1519, Revised Statutes Supplement,
11 2001, is amended to read:

12 66-1519. There is hereby created the Petroleum Release
13 Remedial Action Cash Fund to be administered by the department.

14 Revenue from the following sources shall be remitted to the State
15 Treasurer for credit to the fund:

16 (1) The fees imposed by sections 66-1520 and 66-1521;

17 (2) Money paid under an agreement, stipulation,
18 cost-recovery award under section 66-1529.02, or settlement; and

19 (3) Money received by the department in the form of
20 gifts, grants, reimbursements, property liquidations, or
21 appropriations from any source intended to be used for the purposes
22 of the fund.

23 Money in the fund may only be spent for: (a)

24 Reimbursement for the costs of remedial action by a responsible
25 person or his or her designated representative and costs of

26 remedial action undertaken by the department in response to a
27 release first reported after July 17, 1983, and on or before June

1 30, 2005, including reimbursement for damages caused by the
2 department or a person acting at the department's direction while

3 investigating or inspecting or during remedial action on property
4 other than property on which a release or suspected release has

5 occurred; (b) payment of any amount due from a third-party claim;

6 (c) fee collection expenses incurred by the State Fire Marshal; (d)

7 direct expenses incurred by the department in carrying out the

8 Petroleum Release Remedial Action Act; (e) other costs related to
9 fixtures and tangible personal property as provided in section

10 66-1529.01; (f) interest payments as allowed by section 66-1524;

11 (g) expenses incurred by the technical advisory committee created

12 in section 81-15,189 in carrying out its duties pursuant to section

13 81-15,190; (h) claims approved by the State Claims Board authorized

14 under section 66-1531; and (i) methyl tertiary butyl ether testing,

15 to be conducted randomly at terminals within the state for up to

16 two years ending June 30, 2003. The amount expended on the testing

17 shall not exceed forty thousand dollars. The testing shall be

18 conducted by the Department of Agriculture. The department may

19 enter into contractual arrangements for such purpose. The results

20 of the tests shall be made available to the Department of

21 Environmental Quality.

22 Transfers may be made from the Petroleum Release Remedial

23 Action Cash Fund to the Water Policy Task Force Cash Fund at the

24 direction of the Legislature. Any money in the fund Petroleum

25 Release Remedial Action Cash Fund available for investment shall be

26 invested by the state investment officer pursuant to the Nebraska

27 Capital Expansion Act and the Nebraska State Funds Investment Act.

1 Within fifteen days after the effective date of this act,

2 the State Treasurer shall transfer one hundred fifty thousand

3 dollars from the Petroleum Release Remedial Action Cash Fund to the

4 Water Policy Task Force Cash Fund."

5 2. Renumber the remaining sections, correct internal
6 references, and amend the repealer accordingly.

Senator Brashear filed the following amendment to LB 1085:
(Amendment, AM3216, may be found in the Bill Books. The amendment has been printed separately and is on file in the Bill Room - Room 1102.)

Senator Beutler filed the following amendment to LB 1085:

FA937

Amend AM3155

Strike Section 12

Senator Beutler filed the following amendment to LB 1085:

FA938

Amend AM3155

Strike Section 1 and that portion of section 14 which provides an operative for the cigarette tax

Senator D. Pederson filed the following amendment to LB 1085:

FA939

Amend AM3155

Strike sections 2 through 10

VISITORS

Visitors to the Chamber were Chuck Bunner from Sidney; Emily Buescher from Deweese; 23 students, sponsors, and teachers from Omaha Christian Academy; 20 seventh- and eighth-grade students and teacher from Deshler Lutheran School; and Erin and Mikaela Caudill from Lincoln.

The Doctor of the Day was Dr. Ronald Craig from Lincoln.

ADJOURNMENT

At 6:56 p.m., on a motion by Senator Schimek, the Legislature adjourned until 9:00 a.m., Thursday, March 21, 2002.

Patrick J. O'Donnell
Clerk of the Legislature

